

# **AMSANT Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory**



**20 April 2017**

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## GLOSSARY

ACCHS	Aboriginal Community Controlled Health Service
ACCO	Aboriginal Community Controlled Organisation
AEDC	Australian Early Development Census
AMSANT	Aboriginal Medical Services Alliance of the Northern Territory
ANFPP	Australian Nurse Family Partnerships Program
AOD	Alcohol and Other Drugs
APO NT	Aboriginal Peak Organisations of the Northern Territory
CAAC	Central Australian Aboriginal Congress
CDP	Community Development Program
FASD	Foetal Alcohol Spectrum Disorder
MST	Multi-Systemic Therapy
NTAHF	Northern Territory Aboriginal Health Forum
OOHC	Out of Home Care
PHC	Primary Health Care
SEWB	Social and Emotional Wellbeing

### ***Note on terminology***

Within this document, the term 'Aboriginal' has been predominantly used, except where statistics are referenced that relate specifically to the broader Indigenous population. This is a reflection of the population that AMSANT's members provide services to, and recognition of the fact that the children and young people in the detention and care and protection systems in the Northern Territory are overwhelmingly from Aboriginal communities. It is acknowledged that Aboriginal and Indigenous identity and culture is not homogenous. It is acknowledged that within Aboriginal communities there is great diversity in language and values just as in any other communities.

## RECOMMENDATIONS

### Rethinking the system

1. That a bipartisan commitment be made, across Northern Territory and Commonwealth governments, to provide consistent and adequate funding, with stability guaranteed for at least five years, for evidence-based early intervention, prevention and diversion programs.
2. That the care and protection of children and youth justice systems be reformed with the primary goal of healing and rehabilitation, rather than punishment. AMSANT recommends that these systems be reformed in line with the following principles:
  - Trauma informed and trauma integrated approach
  - Support for community-led solutions
  - Incorporating Aboriginal worldviews
  - Community/family approaches child-centred focus
3. That the *APO NT Partnership Principles* be endorsed by the Northern Territory and Commonwealth governments to give practical effect to the principle of Aboriginal community control, empowerment and capacity in service provision.
4. That compulsory, systematic cultural awareness and responsiveness education be provided to all organisations within the child protection and youth justice systems in order to transform existing cultures of discrimination and neglect within these institutions.

### The determinants of health and child protection and youth justice

5. That a long-term plan for addressing the social determinants of health, including issues of intergenerational trauma, poverty and inequality, overcrowding, early childhood development, unemployment, education, and substance misuse in the Northern Territory be developed in consultation with APO NT and other Aboriginal organisations as a priority for preventing the involvement of Aboriginal children and young people in the child protection and youth justice systems.

### Preventing young people entering the justice and child protection system

6. That the Northern Territory Government develops a policy in support of justice reinvestment to divert funds for imprisonment to address the underlying causes of behaviours related to crime. A justice reinvestment strategy should invest in prevention strategies by (a) identifying 'at risk' children and families and providing them with the support and interventions they need, and (b) by strengthening protective factors, including culture, language and connection to land, within communities.
7. That service delivery in the youth justice, child protection and health related areas be directed in preference through select tender to Aboriginal service providers rather than a competitive, market based approach, and that funding is delivered in line with the

*APO NT Partnership Principles* and the Northern Territory Aboriginal Health Forum's (NTAHF) core services policy for Aboriginal Primary Health Care (PHC) in the Northern Territory.

8. That evidence-based mental health care, in the form of programs and services to build resilience, reinforce positive cultural identity, and addresses trauma and its impacts will be provided to young people. Further that AMSANT recommends that there is a clear recognition of the central role that cultural and spiritual identity has in mental health and wellbeing.
9. That early childhood programs and related clinical and public health services are provided equitably to all Aboriginal children across the NT, as outlined in the NTAHF endorsed document "*Progress and possibilities. What are the key core services needed to improve Aboriginal child outcomes in the NT?*" The key core services are: (a) quality antenatal and postnatal care, (b) clinical and public health programs such as nutrition, (c) nurse home visitation to either all Aboriginal mothers or all first time Aboriginal mothers, (d) parenting programs for those families assessed as vulnerable after completion of Australian Nurse Family Partnerships (ANFP) or who have not engaged in the nurse home visitation program, (e) intensive enriched quality early learning programs for children assessed as high risk for poor educational outcomes, (f) two years of pre-school and referral to targeted or intensive family support services for vulnerable families at risk of entering, or already in, the child protection system and (g) family support services for families at high risk or who are in the child protection system.
10. That needs-based funding be implemented in all primary and secondary schools throughout the Northern Territory.
11. That all students with mental health or social and emotional wellbeing (SEWB) issues have an individual learning plan developed by the school in collaboration with Aboriginal Community Controlled Health Services (ACCHSs).
12. That Aboriginal parents' groups or community controlled school boards be re-established, along with a Northern Territory wide Aboriginal Education Advisory Group, to facilitate the integration of Aboriginal perspectives into curriculum and pedagogy, and the development of partnerships between the school, the family and the community.
13. That programs to improve adult literacy are introduced in Aboriginal communities to support healthy literacy practices within families. The Literacy for Life campaign should be noted as a possible best practice model.
14. That strategies be developed to improve employment outcomes for young Aboriginal people, particularly in remote areas. This should incorporate reform of the Community Development Program (CDP) to enable greater participation of community organisations, with a greater focus on job creation through social enterprise development and locally relevant economic development.

15. That culturally safe, inclusive and structured activities and drop-in centres be available across remote regional and urban areas, and that the APO NT Partnership Principles apply to the funding of youth activities targeting young Aboriginal people.
16. That a population-level approach to alcohol availability be adopted through increases in the minimum or floor price of alcohol.
17. That the recommendations of the NT Parliamentary Inquiry into Fetal Alcohol Spectrum Disorder (FASD) be implemented.
18. That Alcohol and other Drug (AOD) services incorporated into PHC be available to all Aboriginal people including young people.

### Healing-centred approach to youth justice and child protection

19. That the minimum age for placing a young person in detention be raised to 12 in accordance with Australia's obligations under international law.
20. That the criminal justice system recognise and work in conjunction with Aboriginal community-driven responses to engage with the mainstream criminal justice system, such as Law and Justice Groups.
21. That specialist courts which are culturally safe and therapeutically appropriate for young Aboriginal people be established, with a focus on diversionary, rehabilitative and restorative justice programs. A specialist AOD court should be introduced as a priority to deal with the issue of alcohol and illicit drug misuse as primarily a health issue rather than a criminal one. Both residential and community based AOD services (preferably in Aboriginal PHC), should be resourced to deliver targeted therapeutic interventions as part of community-based treatment or orders wherever possible.
22. That comprehensive screening, assessment and early intervention be provided to support families with children suffering from FASD or other cognitive and mental health conditions. In cases where children suffering from cognitive or other mental health conditions come in contact with the criminal justice system, any concerns around impairments should be considered when choosing pathways for the young person, and recommendations from the comprehensive assessments should be actioned as noted in the assessments.
23. That therapeutic programs, such as Multi-systemic Therapy (MST), be introduced to target young Aboriginal people at first point of contact with police and the criminal justice system.
24. That increased resources be allocated to diversion programs. The administration of diversion should be moved from the discretion of police officers to the control of the

judiciary.

25. That community-based rehabilitation, including youth conferencing, victim-offender mediations and engagement with local law and justice groups, be made an option to young offenders wherever possible. All rehabilitative interventions should incorporate services that address the social and emotional wellbeing, physical and mental health issues that young Aboriginal people face.
26. That culturally appropriate supported bail accommodation and other non-custodial alternatives are immediately provided to prevent children being held on remand. Pre-trial remand of children should only be used as a last resort in conjunction with Australia's Human Rights obligations.
27. That appropriate protocols for screening and assessment be conducted by appropriately qualified practitioners for all young people upon entering detention facilities, including a structured assessment of risk for re-offending and also level of risk of harm to self and others. Ongoing monitoring should include evaluations of the young person's; physical and mental wellbeing, substance use, cognitive, language and communication difficulties and life experiences, with a focus on trauma and appropriate cultural assessments.
28. That ACCHSs be fully resourced to deliver behaviour management policies, such as Positive Behaviour Support, in youth detention facilities.
29. That detention in secure facilities only be considered for the small number of young people where there is deemed to be a significant risk to the community. In all other cases, young people should be housed in small residential units where therapeutic treatments can be undertaken. Where possible and appropriate these facilities should be located close to the young people's communities and run by Aboriginal Community Controlled Organisations (ACCOs).
30. That long-term, individualised support be provided to young people post-release to address the range of factors which have contributed to their offending behaviour. These supports should be directly linked to community-based rehabilitative programs and should incorporate literacy, education and employment programs which work with offenders and their families and communities. These programs should be delivered by ACCOs wherever possible.
31. That the child protection system is independently audited against the recommendations of the 2010 Report of the Board of Inquiry into the Child Protection System in the Northern Territory and that those recommendations which have not been implemented or only partially implemented are prioritised.
32. That Territory Families limit their role in high risk families to statutory functions and outsource family support programs to ACCOs.

33. That all children and families at risk of entering the child protection system be provided with targeted family support services, preferably provided by an Aboriginal PHC service. These services should also be provided if a child is removed on a temporary basis and continue post-reunification if necessary.
  
34. That the Northern Territory Government fund the development of a comprehensive strategy to address Out of Home Care (OOHC) for Aboriginal children in the Northern Territory. This strategy should incorporate the following: (a) OOHC should be contracted out to ACCOs in each region who then have the responsibility for recruiting, training and supporting kinship and foster carers and supporting all placements of children. (b) Family Group Conferencing and Aboriginal Family decision-making be reinstated so that kinship care is given absolute priority. (c) Adequate reimbursement and support be provided for Aboriginal kinship carers.
  
35. That the Office of the Children's Commissioner be strengthened through the appointment of an Aboriginal Children's Commissioner, and that this person be mandated to provide 6 monthly reports on progress made in response to the Royal Commission's findings and recommendations.



## 1. INTRODUCTION

### AMSANT and its relationship to child protection and youth detention

AMSANT is the peak body for Aboriginal community controlled health services (ACCHSs) in the NT. Our members provide comprehensive Primary Health Care (PHC) from urban centres to the most remote parts of the NT. Our members include small single site ACCHSs and large urban and regional ACCHSs. The ACCHS sector provides over half of the care in the Aboriginal PHC sector with just under half being provided by the government sector. Outside of Darwin, most Aboriginal people receive PHC through the Aboriginal PHC sector.

Comprehensive PHC includes a range of programs targeting the health and wellbeing of children and families, including:

- Early childhood
- Early intervention and support services in relation to alcohol and other drugs (AOD), family violence etc.
- Social and emotional wellbeing (SEWB) support for young people.

ACCHSs are also required to provide responses in relation to statutory notifications of child abuse and neglect, and are subject to mandatory reporting requirements in relation to harm or exploitation of children and in certain circumstances of underage sexual activity. They also provide services and care for children in out of home care and detention as well as post-detention and care.

ACCHSs are often aware of children and families in vulnerable circumstances in communities and in remote settings may be the only local providers of support and referral services.

AMSANT provided a preliminary submission to the Commission in December 2016. This submission emphasised the need for significant reforms to our systems of youth justice and child protection to ensure they become therapeutic environments that are trauma informed, culturally informed and effectively working toward recovery and healing.

## 2. RETHINKING THE SYSTEM

### History of failed responses

The disturbing issues that have sparked this Royal Commission and the broader record in the Northern Territory in relation to child protection and youth detention reveal a history of failed responses and lost opportunities.

The Commission has already heard significant evidence on the failure of successive governments, both Commonwealth and NT, in their responses to the recommendations of numerous previous commissions, inquiries and reports. At the public hearing for the Royal Commission held on the 11th of October, the Commissioners were presented an index of 53 previous reports highlighting the longstanding and well documented nature of these

failures. AMSANT draws the Commissioners' attention in particular to the findings and recommendations of: the Royal Commission into Aboriginal Deaths in Custody, including that of the Northern Territory Aboriginal Issues Unit's *Too Much Sorry Business*. The Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Little Children are Sacred*, and the Report of the Board of Inquiry into the Child Protection System in the Northern Territory 2010 *Growing them Strong, Together*.

The failure to implement recommendations of previous inquiries has contributed to the current environment in which many Aboriginal people are deeply sceptical that government is genuine in its concern, or capable of reform. In order to build trust with Aboriginal communities and hold governments accountable, there must be a strong mechanism to ensure the recommendations arising from this Commission are implemented. Aboriginal people in the NT must not be subjected to another inquiry which is largely ignored by both levels of government. AMSANT is recommending that the position of NT Aboriginal Children's Commissioner be created and tasked with reporting to government and the public on the progress of implementing the recommendations of this Commission and that both levels of government commit to implementing the recommendations (see Recommendation 35).

An historical lack of bipartisan commitment on issues of Indigenous affairs, including the implementation of such recommendations, has obstructed reforms that could have positively impacted the lives of Aboriginal Territorians. Additionally, the lack of long-term, coherent strategies for sustained funding between or within the NT and Federal Governments has resulted in inconsistent service delivery and short-term approaches to early intervention and prevention strategies.

#### **RECOMMENDATION 1:**

That a bipartisan commitment be made across Northern Territory and Commonwealth governments, to provide consistent and adequate funding, with stability guaranteed for at least five years, for evidence-based early intervention, prevention and diversion programs.

Between 2011 and 2015 the number of children in out-of-home care rose by an average of 16% per year—a growth entirely due to the increased numbers of Aboriginal children who had been removed from their families (Office of the NT Children's Commissioner 2015). Additionally, in 2015, only 34.7% of Aboriginal children in the NT were placed in care in accordance with the Child Placement principle, compared with a national average of 65.6%, and only 3.3% of children were placed with relatives or kin, compared with 48.8% at the national average (SCRGSP 2016). The disproportionate representation of young Aboriginal people in detention is equally alarming, with an average of 95% of young people in detention being Aboriginal (AIHW 2011b). The absolute number of young people in juvenile detention has more than doubled from 2000 to 2015 (NTDCS 2015). The increasing overrepresentation of Aboriginal young people in out of home care and the justice system is testament to the approaches taken that have not worked, and to a system that is in crisis

and requiring fundamental reform.

### Principles for a reformed system

AMSANT submits that based on available evidence, a reformed system for the care and protection of children and youth justice should be based on the following principles:

- Trauma informed and trauma integrated approach
- Support for community-led solutions
- Incorporating Aboriginal worldviews
- Community/family approaches
- Child-centred focus

### *Trauma informed and trauma integrated approach*

The current system of youth detention seems to be set up for the purpose of punishment rather than rehabilitation or healing. A significant link has been established between exposure to violence, poverty, alcohol abuse and dysfunctional relationships, and contact with youth detention systems (U.S. Department of Justice, 2012; Vita, 2015). It is therefore essential that the system be reconfigured in a way that addresses the underlying trauma and grief caused by these events, rather than perpetuating or exacerbating it.

### **RECOMMENDATION 2:**

That the care and protection of children and youth justice systems be reformed with the primary goal of healing and rehabilitation, rather than punishment. AMSANT recommends that these systems be reformed in line with the following principles:

- Trauma informed and trauma integrated approach
- Support for community-led solutions
- Incorporating Aboriginal worldviews
- Community/family approaches
- Child-centred focus

Considerable research has revealed the ways that traumatic experiences can detrimentally impact the development of a child’s brain (Van der Kolk B. 2005). Such trauma often leads to the dominance of survival mechanisms designed to protect against harm, over learning mechanisms, which are vital to healthy growth and development (Atkinson J. 2013). Often children in Child Protection or Juvenile Justice systems may express these behaviours as being violent in nature, aggressive, impulsive, oppositional or unreachable. However, when interpreted in the context of this evidence, we can better understand that what underlies these behaviours is the grief of a child who has had to live through traumatic experiences.

In light of this, it is clear that responses based on punishment, exclusion or isolation can add to existing trauma, perpetuate the child’s belief that their world is unsafe, and further compound and escalate complex and violent behaviours. AMSANT refers the

commissioners to the eight core principles identified in the preliminary submission to the Royal Commission that capture the broad concepts of what it is to be Trauma Informed.

1. Understand trauma and its impacts;
2. Create environments in which families and social groups feel physically, emotionally and spiritually safe
3. Provide culturally competent staff – staff respect specific cultural backgrounds including reflection of self as a cultural bearer;
4. Empower and support clients' control;
5. Share power and governance including individuals and families in the design and delivery of programs;
6. Integrate and coordinate care to holistically meet the needs of individuals;
7. Support relationship building as a means of promoting healing; and
8. Enable recovery.

Trauma Informed principles and trauma specific ways of working should influence all proposed changes to better meet the needs of Aboriginal children within the child protection and justice systems.

### *Support for community-led solutions*

Aboriginal community control and empowerment should be at the heart of the design and delivery of services to Aboriginal children and their families. Systems of care, justice, health and child protection which have been developed for Aboriginal people, but not by Aboriginal people, have a long history of perpetuating and exacerbating traumatic experiences (AMSANT 2016a). A previous inquiry into the child protection system undertaken by the NT Government recommended the “active involvement and participation of Aboriginal people in all aspects of service development and delivery according to accepted self-determination and empowerment principles” (NT Government 2010). Further, a number of studies of Aboriginal communities in Canada have revealed a link between increased self-determination and community control and improved health and psychological wellbeing outcomes (Chandler M. and Lalonde C. 1998, Indian and Northern Affairs Canada 2009).

Where external collaboration is required, in order for engagement to be ongoing and relationships of trust to be developed, Hunt (2013) proposes that Aboriginal people need to develop governance arrangements which enable them to collectively engage with government and non-government institutions. To give practical effect to the principle of Aboriginal community control and empowerment, particularly in cases of collaboration with other service providers, APO NT has developed and promoted the adoption of Partnership Principles for working with Aboriginal organisations and communities in the NT to increase Aboriginal control of and capacity for delivering services and programs (APO NT). AMSANT endorses these principles and recognises that to be effective, they require a corresponding commitment from the Federal and NT governments to provide an enabling environment to support implementation of the Principles. Aboriginal people in the NT want to be given a real chance to drive the change needed to secure a better future for our people. The principles of local involvement, ownership and control must underpin efforts to find practical and sustainable solutions for Aboriginal people.

### **RECOMMENDATION 3:**

That the *APO NT Partnership Principles* be endorsed by the Northern Territory and Commonwealth governments to give practical effect to the principle of Aboriginal community control, empowerment and capacity in service provision.

An existing, successful area of Aboriginal controlled service delivery that is relevant to the matters before the Commission is the Aboriginal community controlled health service (ACCHS) sector. ACCHSs deliver comprehensive primary health care including a range of services for children and families as outlined in the introduction and detailed further below.

#### ***Incorporating Aboriginal worldviews***

AMSANT urges the Royal Commission to acknowledge the importance and centrality of Aboriginal worldviews and understandings of wellbeing to the experience of Aboriginal children and youth in the child protection and juvenile detention systems. The Commission's responses and recommendations should be particularly sensitive to the unique experience of social and emotional wellbeing (SEWB) for Aboriginal people. This concept, as outlined in detail in AMSANT's preliminary submission to the Commission, encompasses domains of connection to culture, body, mind and emotions, land, family and kinship, spirituality and community (Gee G. et al. 2014). Understanding the implications of disruption and connection in relation to these domains is central to developing the capacity of staff, services and organisations involved in the child protection and juvenile detention systems to become Trauma Informed.

Incorporating Aboriginal worldviews is critical to improving the cultural safety of the child protection and detention systems. This should include increasing the number of Aboriginal staff involved in these systems, increased use of interpreters and ensuring greater access and involvement of families.

ACCHSs play a central role in the continued recognition of Aboriginal understandings of wellbeing. These services actively participate in the health of Aboriginal communities and are able to contribute local and cultural knowledge and expertise, improving the cultural appropriateness and utility of services for Aboriginal communities (Campbell M. et al. 2017).

#### ***Community/Family approaches***

Aboriginal society is structured around the community, made up of strong kinship and family ties and networks. In light of this reality we caution the Commission against responses which overemphasise individualistic western paradigms and overlook the importance of family and community to Aboriginal health and wellbeing. Responses and interventions must focus on what the Hamburger report called a holistic "whole of community approach" which "empowers Indigenous people to be part of the solution to their gross overrepresentation within the Territory's criminal justice system" (Hamburger K. 2016).

This principle is not a new one, having been identified within The National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2004–2009, endorsed by both Commonwealth and State/Territory governments. As one of nine guiding principles, this document stresses the need to recognise the “centrality of Aboriginal and Torres Strait Islander family and kinship”, as well as “broader concepts of family and the bonds of reciprocal affection, responsibility and sharing” (Dudgeon P. et al. 2014).

Importantly, the Aboriginal and Torres Strait Islander placement principle has been embedded in legislation across all jurisdictions in recognition of the importance of connection to family and culture for Aboriginal children. The overwhelming number of young Aboriginal children removed from families and not placed with kin or other Aboriginal people (refer section 2), however, reflects that this principle is not being enacted in practice. Consequently, there is an urgent need to re-envisage child protection and youth justice systems in a way which places the community and the family at the centre of decision-making processes.

### **Child-centred focus**

AMSANT believes that a reformed system should adopt an approach which prioritises the child's wellbeing first, while recognising that its achievement is contingent on the health of the community as a whole. The major inquiry into child protection in the Northern Territory *Growing them Strong, Together* identified “child-centred [services] in the context of family and community” as a key principle needed to underpin effective care and protection for young people (NT Government 2010). AMSANT suggests that any responses put forward by the Royal Commission must fully embrace this principle.

AMSANT refers the Commissioners to the NT Aboriginal Health Forum's (NTAHF) recently completed ‘Progress and possibilities’ report which identifies the key core services needed to improve childhood outcomes in the NT (NTAHF 2016). There is a strong body of evidence that children's early years of life are fundamental to their physical and emotional health, including social and cognitive development, later educational achievement, and more long-term life outcomes (Arabena K. et al. 2015). Stress and trauma in childhood have been causally linked to long-term outcomes including depression, suicide, substance abuse, poorer employment outcomes, and chronic disease risk (Felitti et al. 1998, in Emerson et al. 2015). Importantly, however it has also been demonstrated that early intervention can break the cycle of disadvantage and trauma which causes these outcomes (Harvard University Center on the Developing Child 2016).

### **Changing the culture**

The issues of inequality and disadvantage experienced by Aboriginal people in the Northern Territory are by no means unique. Similar experiences have been documented for Aboriginal Australians across the country. It is therefore clear that there is a need for a systematically different approach to the ways that Aboriginal people are governed, and issues of social justice are approached by the Commonwealth, as well as within individual jurisdictions.

The long history of inaction and failed responses in the face of clear evidence of child



protection and youth justice systems that are not meeting the basic needs of some of our most vulnerable members of society speaks to systemic discrimination and the need for a radical change to how all service providers operate in their dealings with young Aboriginal people. AMSANT proposes that NT Government departments, police and legal services need to work closely in conjunction with Aboriginal organisations and communities to transform cultures of discrimination and neglect where they exist. The aim of these service providers should be to foster consultation and collaborative processes that ensure community members actively participate in decision making, and to create enabling conditions for communities to build capacity, thus creating an environment that better supports their children and young people.

This kind of systemic and organisational shift calls for a new paradigm of working, which will require all organisations within the protection and justice systems, including relevant government departments and NT Police, to become trauma informed in line with the eight core principles outlined above.

#### **RECOMMENDATION 4:**

That compulsory, systematic cultural awareness and responsiveness education be provided to all organisations within child protection and youth justice systems in order to transform existing cultures of discrimination and neglect within these institutions.

### **3. THE DETERMINANTS OF HEALTH AND CHILD PROTECTION AND YOUTH JUSTICE**

AMSANT strongly believes that a better understanding of how the determinants of health contribute to young Aboriginal people coming in contact with the child protection and youth detention systems in the Northern Territory is central to the creation of a more effective, reformed system. It has been recognised for some time that many Aboriginal families, particularly in remote communities, are struggling to deal with a range of environmental and societal factors which seriously impact their health and wellbeing. These factors, referred to as the social determinants of health, include adequate income, employment, housing, nutrition, education, social inclusion, and the protective role of culture, language and land. In the absence of these conditions children and their families become more vulnerable to disadvantage, inequality and the continuation of intergenerational trauma, all of which are major risk factors for later encounters with the criminal justice system. A recent major report concluded that in the Northern Territory:

*the failure of policymakers to deal with the multiple sources of disadvantage that exist in Indigenous communities, such as inadequate housing, preventable chronic health issues, mental illness, low-levels of education, high unemployment, cultural alienation, racism, substance abuse and family dysfunction are significant causes of the high incarceration rate in the Northern Territory (Jones C and Guthrie J 2016).*

#### **Intergenerational trauma and culture**

The most complex health, mental health, substance use, justice and child protection issues

within Aboriginal communities throughout Australia can be better understood in the context of historical and transgenerational trauma (AMSANT 2016a). Colonisation, dispossession and displacement from traditional lands, loss of culture, the separation of families through past government policies, high levels of incarceration, and ongoing discrimination and racism have all contributed to continuing disadvantage, poor health and poor social outcomes for many Aboriginal people. Conversely, culture and spirituality are important in addressing intergenerational trauma through supporting resilience and positive social and emotional wellbeing (Gee G. et al. 2014). It is therefore essential that all service delivery to Aboriginal people, and especially when dealing with at risk young people, use approaches that are trauma-informed and that support and validate Aboriginal cultures and ways of being.

### **Disadvantage and inequality**

Aboriginal children in the Northern Territory are much less likely to enjoy a safe and healthy life than their non-Aboriginal counterparts. Experiences of disadvantage, poverty, exposure to domestic violence and alcohol abuse, and incarceration of family members are unacceptably common. Poor housing and overcrowding in particular, impact significantly on the ability of parents to care for and protect children. Poor housing conditions and lack of stability in a child's home environment affect their physical and emotional safety, as can exposure to violence and abuse, and lead to poorer outcomes (AIHW 2011a). Addressing these inequities must be understood as a fundamental factor contributing to the involvement of young Aboriginal people in the child protection and criminal justice systems.

### **Early childhood development**

Extensive research over many years has provided evidence that the early years of life are fundamental to both the physical and emotional health of children, for their social and cognitive development, and for later educational achievement and life chances. Adverse childhood events have been causally linked to poorer long-term outcomes (NTAHF 2016). Concerningly, data from the Australian Early Development Census (AEDC) demonstrate that Aboriginal children particularly in remote areas have very high rates of vulnerability across the five AEDC domains. In some communities, up to 40% of Aboriginal children are vulnerable on two or more domains at school entry (AEDC 2015).

However, it has also been well documented that intervention in early childhood can improve long-term outcomes across a range of areas including education, employment, health and wellbeing (Center on the Developing Child at Harvard University 2016). These interventions therefore reduce adverse factors in the community which contribute to youth offending, while also reducing monetary costs in the long-term. In addition, it has been shown that preventative diversionary programs targeted at children with identified behaviour problems produce significantly higher benefits than costs through prevention of later offending (Farrington D. and Koegl C. 2015). The Aboriginal Community Controlled Health Service (ACCHS) sector in particular has been a leader in early childhood program development with Central Australian Aboriginal Congress (CAAC) having successfully delivered the Australian Nurse Family Partnership (ANFP) Program including in two remote communities, as well as delivering the Abecedarian enriched learning program for pre-school-age children.



## School education

The disparity between educational outcomes and attendance for Aboriginal and non-Aboriginal children is a long standing, and mostly worsening reality (AIHW 2015). There is a strong relationship between school performance, rates of school retention, truancy and involvement in crime (Weatherburn 2001). NAPLAN results for 2014 revealed that on average across the four year groups tested, only 34% of Indigenous students were at or above the benchmark for reading in the Northern Territory, compared with 91% for non-Indigenous students. The Northern Territory also had the largest attendance gaps between Indigenous and non-Indigenous students in 2013, ranging from 21-22% in the primary school years (Years 1-6), to 31% in Year 10 (AIHW 2015). A recent data linkage study showed that overcrowding is also a major determinant of poor school attendance (Guthridge S. et al. 2015). In 2008, only 31% of young Indigenous people (20-24 years) had attained Year 12 compared with 76% of non-Indigenous 20-24 year olds (ABS 2011).

## Employment

Many young Aboriginal people struggle with the transition from school to work, particularly in remote areas where there are limited employment opportunities. Improving educational and health outcomes are key to improving employment prospects and keeping young people out of detention. Studies have shown that job retention is significantly lower for people with health problems and recent involvement with the justice system (Hunter B. 2010). Equally, a strong relationship has been found to exist between unemployment and crime, particularly where low socioeconomic status offenders are concerned (Weatherburn et al. 2006).

A Closing the Gap Clearinghouse report examining possible pathways for Indigenous school leavers highlights that wage subsidy programs are consistently identified as having the best outcomes for Indigenous jobseekers, and that evidence on outcomes highlight the benefits of Indigenous participation in the design of these programs (Hunter B. 2010). This has not been the case for the Community Development Program (CDP) currently in place in the Northern Territory. A review of the CDP program by Jobs Australia (2016) found that there has generally been little real community control or engagement in decision-making and consequently little community 'buy-in' in the program. Furthermore, the "potentially discriminatory" Work for the Dole requirements were found to be significantly more onerous in remote areas than non-remote (Jobs Australia 2016). This is resulting in alarming rates of breaching penalties on remote CDP participants (Fowkes L. 2016) with anecdotal evidence suggesting significant negative individual and community impacts resulting from lost income and increasing disengagement. These kinds of Work for the Dole schemes have, in the past, been shown to have a significantly negative effect on transitions into employment (Borland and Tseng 2004).

## Alcohol and other drugs

Exposure to parental alcohol abuse and addictions make children vulnerable to poor development, with a higher risk of addiction when they reach adolescence and an increased risk of getting in trouble with the law (APO NT 2013). Risk factors for childhood development that are associated with alcohol misuse and abuse include alcohol

consumption during pregnancy, domestic violence, past and ongoing trauma and multiple sources of stress and disadvantage. Half to two thirds of children in child protection and out of home care have at least one parent with an alcohol and/or drug dependence (Scott D, n.d.). Alcohol misuse is also a prevalent factor in young Aboriginal people in detention, including at the time of an offence resulting in detention (Prichard J. and Payne J. 2005).

Preventing harmful AOD use in teenagers is critical, as evidence indicates that drug use established in teenage years is much more likely to result in long lasting addiction (National Institute on Drug Abuse 2014). Illicit drug use is a major issue in NT urban Aboriginal communities with drugs such as cannabis also commonly used in some remote communities (Moon C. 2013). Like alcohol, illicit drug use should primarily be viewed as a health problem with the driving factors of socio-economic status disadvantage, trauma, marginalisation and exclusion driving both alcohol and illicit drug use in Aboriginal people. Dealing with the underlying determinants must be a central part of the response.

Action to prevent the impacts of alcohol and other drugs (AOD) that result in the involvement of Aboriginal children and youth in protection and detention therefore need to be directed towards broad-based public health measures to reduce alcohol consumption amongst the whole community.

AMSANT also refers the Commission to the NT Parliamentary Inquiry into Foetal Alcohol Spectrum Disorder (FASD) which recognises the huge cost that FASD can have to the community, including through coercive interventions, such as imprisonment, to control destructive behaviours (Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder 2015). The implementation of recommendations identified by the Inquiry should be seen as a vital first step in addressing the alcohol abuse which is inextricably linked to the prevention and treatment of FASD.

#### **RECOMMENDATION 5:**

That a long-term plan for addressing the social determinants of health, including issues of intergenerational trauma, poverty and inequality, overcrowding, early childhood development, unemployment, education, and substance misuse in the Northern Territory be developed in consultation with APO NT and other Aboriginal organisations as a priority for preventing the involvement of Aboriginal children and young people in the child protection and youth justice systems.

## **4. PREVENTING YOUNG PEOPLE ENTERING THE CHILD PROTECTION AND YOUTH JUSTICE SYSTEMS**

Most if not all of the evidence based strategies for reducing offending in young people are also relevant to reducing entry of children into the child protection system. Equally, a high proportion of young people in the juvenile justice system are or have been in the child protection system (AIHW 2016). The primary aim of reforms recommended by the Commission should be to prevent children from coming into contact with these systems altogether. Prevention strategies should identify children and families 'at risk' and in need of

support and intervention, while at the same time strengthening protective factors across the community to reduce the initial onset of offending or triggering of child protection processes among these children and families.

## Justice Reinvestment

Justice reinvestment is increasingly being recognised as a real alternative to overly punitive and ineffective approaches for Australian communities seeking to tackle problems around offending and incarceration. The basic premise behind justice reinvestment is that funds for imprisonment should be diverted to local community services in order to address the underlying causes of crime. This means spending money now on dealing with the causes of crime to save money in the future on dealing with the outcomes of crime. A policy of justice reinvestment should be fundamental to any approach which is genuinely committed to preventing young people from coming into contact with child protection or youth justice systems in the first instance.

The Making Justice Work (MJW) coalition, which brings together a wide range of groups with a common interest in effective responses to crime and justice in the Northern Territory, is an advocate of the justice reinvestment approach. Since March 2015 the Katherine Youth Justice Reinvestment Working Group has been engaging with communities to determine the capacity of justice reinvestment to reducing incarceration. This included a consultation process undertaken by Research Fellow Fiona Allison, which indicated support from both stakeholders and community members (Allison F. 2016). Supported by Red Cross NT this working group continues its work to develop a long-term strategy. Additionally, AMSANT is aware of a justice reinvestment and community works program proposed by the Central Desert Regional Council, which aims to provide community-based, cost effective alternatives to prison with a focus on wrap-around client services and employment pathways.

These kinds of projects and initiatives demonstrate the enthusiasm and community support which exists for justice reinvestment. The NT Government should develop a policy in support of justice reinvestment, which ensures that these kind of community driven, collaborative projects have the support they need to succeed.

### RECOMMENDATION 6:

That the Northern Territory Government develops a policy in support of justice reinvestment to divert funds for imprisonment to address the underlying causes of behaviours related to crime. A justice reinvestment strategy should invest in prevention strategies by (a) identifying 'at risk' children and families and providing them with the support and interventions they need, and (b) by strengthening protective factors, including culture, language and connection to land, within communities.

## RECOMMENDATION 7:

That service delivery in the youth justice, child protection and health related areas be directed in preference through select tender to Aboriginal service providers rather than a competitive, market based approach, and that funding is delivered in line with the *APO NT Partnership Principles* and the Northern Territory Aboriginal Health Forum's (NTAHF) core services policy for Aboriginal Primary Health Care (PHC) in the Northern Territory.

### Reforming system services

Currently the system that provides SEWB programs, social and family support, youth work, and early childhood programs is fragmented, uncoordinated and inequitable (NTAHF 2016). Many services and programs are provided by mainstream NGOs that have no Aboriginal governance and little Aboriginal input at a senior level into how programs are designed, implemented and run. The system is driven by a market based approach to service delivery characterised by competition rather than collaboration, short term funding, a lack of attention to developing a strong Aboriginal workforce and a lack of needs-based planning (AMSANT 2016b). The Indigenous Advancement Strategy (IAS) has worsened the situation with mainstream organisations competing for funds directly against well-established community controlled organisations. Large mainstream organisations are able to develop impressive tender documents quickly, without the deep understanding of community and grassroots connections to be able to provide culturally respectful services. Merely providing more services into this mix without reform of how services are provided will have suboptimal outcomes.

### Comprehensive Primary Health Care

Comprehensive primary health care defines its role not only in terms of treatment of illness, but also as including health promotion and illness prevention, promotion of community and individual self-reliance and participation, and intersectoral action to address the social determinants of health (Tilton E. and Thomas D. 2011). Larger ACCHSs in urban areas are already providing a large number of services across these domains, however many, such as SEWB programs, are not funded at a level commensurate with need. Aboriginal primary health care in the NT is guided by a core services policy that sets out a holistic vision of what services should be provided across five domains including clinical services, health promotion, corporate services and infrastructure, advocacy knowledge and research, policy and planning and community engagement control and safety (Ibid.). This has guided an equitable and evidence-based increase in resources to ACCHSs over the last 10 years.

Community control and governance are recognised as necessary conditions for strengthening social and economic wellbeing in Aboriginal communities (ATSISPEP 2016, Zubrick S. et al. 2014). Connection to culture has also been identified as significant protective factor against emotional and mental ill-health, including suicide prevention (Emerson L. et al. 2014; Chandler M. and LaLonde C. 1998). Aboriginal NGOs have long delivered services in the NT, often using a community development approach with an emphasis on good governance, local involvement and capacity strengthening. The strength of Aboriginal NGOs includes: strong relationships with communities, understanding of

community needs, cultural competence, and a permanent presence in Aboriginal communities. AMSANT draws particular attention to the success of ACCHSs in this area, having been found to have better cultural security than mainstream primary care services, resulting in improved patient satisfaction and higher rates of adherence to treatment (Mackey P. et al. 2014).

## **Key service areas in the community controlled health service model relevant to wellbeing and the prevention of youth crime and child abuse/neglect**

### ***Social and emotional wellbeing services including mental health and alcohol and other drug services***

Early intervention should focus on improved access to evidence-based mental health care for young people that recognises the role of culture as a protective factor. As reported in the Aboriginal and Torres Strait Islander Suicide Prevention Evaluation Project (ATSISPEP), there needs to be a radical rethink in Aboriginal mental health policy to place Aboriginal people at the centre of care (2016). When considering protective social emotional wellbeing factors for young Aboriginal people Haswell et al. (2013) has identified social cohesion, including strong cultural ties and reciprocal relationships and deep-seated connection to land, culture, spirituality and ancestry. It is critical that these protective factors are embedded within intervention programs to ensure the development of strong cultural identities and resilience.

AMSANT refers the Commission to our model for integrating AOD and mental health services and primary health care in Aboriginal community controlled health services in the NT (AMSANT 2011). This model has been developed with input from ACCHSs in both regional and remote areas who have first-hand experience in provision of SEWB and AOD services in their communities. The model calls for a collaborative needs-based planning approach to; deal with high rates of dual diagnosis (coexistence of mental health and AOD conditions); integrate mental health and AOD services into other aspects of primary health care; provide a full range of services to remote populations; address AOD and mental health issues in a culturally-effective, holistic way, and; establish multidisciplinary SEWB health teams with a strong Aboriginal workforce.

Treatment of mental health and AOD issues should be occurring before incarceration is required. This should include:

- Early identification through a youth friendly, culturally safe service that proactively engages with young people including those at high risk or who are not regularly accessing the services. Screening should occur through a young person's health check
- A strength based approach that develops the young person's skills across key areas ( e.g. social cognitive and behavioural skills)
- Counselling and mentoring
- Evidence-based mental health and alcohol and other drug treatment including psychological interventions with specialist services as required.

Access to SEWB/AOD programs in Aboriginal primary health care is improving but still deficient. AMSANT recommends that investment needs to continue to increase to ensure

comprehensive SEWB programs are available across the NT.

### RECOMMENDATION 8:

That evidence-based mental health care, in the form of programs and services to build resilience, reinforce positive cultural identity, and addresses trauma and its impacts will be provided to young people. Further that AMSANT recommends that there is a clear recognition of the central role that cultural and spiritual identity has in mental health and wellbeing.

#### *Improving early childhood outcomes*

As already noted, improving early childhood outcomes has long lasting positive effects in adult outcomes. Particularly relevant to this inquiry is that investing in evidence-based early childhood development programs is one of the most cost effective strategies for reducing rates of Aboriginal imprisonment (McGinness A and McDermott T 2010, Senate Select Committee on Regional and Remote Indigenous Communities 2010) and also have sound evidence base for reducing child protection involvement (Olds 1994, Olds 1997).

The NTAHF has recently endorsed a core services approach to early childhood programs, outlined in the document *What Are the Key Core Services Needed to Improve Aboriginal Childhood Outcomes in the NT? Progress and Possibilities*. This sets out a platform for developing policies and programs to help Aboriginal families give children (aged 0-5) the best start in life. It is based on a universal service system supported by targeted services (for high risk groups such as teenage mothers) and indicated services for children with a diagnosed condition (e.g. developmental delays). Programs need to be strength- and evidence-based, culturally safe, community-led and developed, and implemented by Aboriginal community-controlled organisations (ACCOs) where possible. Programs need to be based on an understanding of the resilience and strength of Aboriginal culture and the centrality of culture in raising families.

However, at present there is a patchwork of programs and providers, with many programs not being evidence based, and/or not being provided at sufficient intensity (hours of exposure per week and duration) to make a real difference. Many programs are fly-in, fly-out (FIFO) with tenuous connection to Aboriginal communities (NTAHF 2016).

Key programs set out in the NTAHF document include:

1. Antenatal and postnatal care. Including ensuring that pregnant women have access to cultural support and SEWB, AOD and family support programs as needed.
2. Clinical and public health programs. Good nutrition in-utero and in infancy and childhood establishes the foundation for good health throughout life. High rates of childhood anaemia and failure to thrive reflect an expensive and poor quality food supply in communities with high levels of poverty, lack of infrastructure (e.g. functioning kitchens) and a lack of a community-led approach to improving nutrition. Malnutrition in early childhood is particularly serious as it affects brain development at a critical time, and thus long term outcomes. What is required are policy changes, such as subsidies for healthy food in remote communities, and reform to existing nutrition services so that



they are adequately resourced, community-led, multifaceted, and target mothers and children as part of broader programs.

3. Home visitation programs. Programs such as the Olds Australian Nurse Family Partnership Program (ANFPP) should be made available to all Aboriginal mothers in the NT. The Olds ANFPP program has now been successfully implemented in Alice Springs and two remote communities for several years. The program commences in pregnancy and finishes at the second birthday. It is based on social learning model and has a sound theoretical base. High level evidence from randomised controlled trials has demonstrated reduced child injury and child abuse, less teen crime before 15, and improved social outcomes for the mother (NTAHF 2016). The Commonwealth Government and now the NT Government is funding an expansion of the ANFPP program across the NT, but Commonwealth roll out has been particularly slow, taking two years to determine new site locations. Even with this roll out, many mothers and children will not get the benefit of this program. AMSANT recommends that all Aboriginal mothers should be able to access this program within 3 years and that a robust NT evaluation be undertaken to assess whether the program requires any adaption for this context.
4. Parenting programs. Made accessible as a targeted program for parents who need additional support (e.g. teenage mother), or who have not engaged in the ANFPP. Poor parenting has been shown to have almost twice the impact on child development outcomes as poverty, while positive parenting can mediate the impacts of poverty (Kiernan & Mensah 2011, in Emerson et al. 2015). Programs need to include cultural consultants as a key part of the program, be evidence-based, of reasonable duration with enough “dose” to make a difference, and have a strength-based culturally safe and supportive approach. Evidence-based parenting programs are detailed in the NTAHF policy document. Currently, parenting programs are only available to some families who need them (mainly in urban locations), are often delivered by mainstream organisations with tenuous connections to communities and are often not evidence-based.
5. Intensive early learning programs. The best example relevant to the NT is the Abecedarian program which has been proven to be effective in improving employment outcomes, reducing the need for special education, and improving outcomes for low birthweight babies and teenage mothers (Australian Medical Association 2013). The Abecedarian program is most effective in disadvantaged populations. The Abecedarian program has already been implemented in the NT through CAAC as part of school readiness and key elements of the program have been incorporated into Families as First Teachers (FaFT). There are some concerns about the quality and consistency of the FaFT Program across the NT and it remains to be seen as to whether the degree of exposure to this program is sufficient to make a significant difference to learning outcomes. Enrolment in the Abecedarian program from age six months to preschool could benefit a high proportion of Aboriginal children.
6. Two years of preschool. The Council of Australian Government’s (COAG) commitment to providing high quality pre-schooling for fifteen hours a week, delivered by early childhood teachers with at least four years of training needs to be delivered consistently

across all Aboriginal communities (COAG 2008). Preschool has a strong evidence base at improving educational outcomes particularly if it is provided over a two-year period by qualified teachers (Syliva et al, 2004). Access to preschool is improving but more needs to be done to ensure all children have good exposure.

7. Family support programs for vulnerable families. These more intensive case management and support services are required for families who are either at high risk of entering or who are actually already involved in the child protection system. The aim of these programs is family preservation whilst also ensuring child safety. Intensive family support programs can also support a family where a child is returned for as long as required. These programs are now generally only available in urban regions (and they are often not resourced to meet the need in those regions) and are only available in a few remote communities (and usually not delivered by a community controlled organisation).

The Northern Territory Government is currently reviewing early childhood programs and policies. AMSANT recommends that there is a scoping study to assess the access and quality of services across these 7 domains across the NT. The Commonwealth and NT governments and APO NT/AMSANT should then work together to build a service system that delivers high quality culturally safe, community controlled if possible, early childhood programs across these 7 domains. Many of these services will be best located in comprehensive primary health care.

#### **RECOMMENDATION 9:**

That early childhood programs and related clinical and public health services are provided equitably to all Aboriginal children across the NT, as outlined in the NTAHF endorsed document “Progress and possibilities. What are the key core services needed to improve Aboriginal child outcomes in the NT?” The key core services are: (a) quality antenatal and postnatal care, (b) clinical and public health programs such as nutrition, (c) nurse home visitation to either all Aboriginal mothers or all first time Aboriginal mothers, (d) parenting programs for those families assessed as vulnerable after completion of Australian Nurse Family Partnerships (ANFP) or who have not engaged in the nurse home visitation program, (e) intensive enriched quality early learning programs for children assessed as high risk for poor educational outcomes, (f) two years of pre-school and referral to targeted or intensive family support services for vulnerable families at risk of entering, or already in, the child protection system and (g) family support services for families at high risk or who are in the child protection system.

#### ***Family support***

Parenting is a vital factor in determining outcomes for at risk children. Although parenting support programs are often used as secondary or tertiary interventions in high-risk families, they may be more effective as universal primary prevention programs. It is important that these programs are adapted to ensure they are culturally safe, meaningful and accepted within the local community. AMSANT refers the Commissioners to the following programs, identified by the NT Aboriginal Health Forum, which have good evidence of effectiveness



internationally: Triple P, The Incredible Years, HighScope Perry preschool, the Carolina Abecedarian program and the Chicago Child-Parent Centres (NTAHF 2016). The Let's Start program, which was developed and trialled in the Northern Territory, should also be examined for important lessons learnt in this area (refer to Robinson et al. 2009).

## Improving educational outcomes

### *Needs-based funding for primary and secondary schools*

Needs-based funding should be implemented in all primary and secondary schools in the NT. Individual learning plans should be developed by the school, in collaboration with ACCHSs, for all children with identified developmental, mental health or social and emotional wellbeing issues. The plans should be able to take account of their special needs and offer family support and therapeutic services as needed to assist learning outcomes. This should be supported through the re-establishment of resourced, school based Aboriginal Parents Groups or community controlled school boards and an NT wide Aboriginal Education Advisory Group.

#### **RECOMMENDATION 10:**

That needs-based funding be implemented in all primary and secondary schools throughout the Northern Territory.

#### **RECOMMENDATION 11:**

That all students with mental health or social and emotional wellbeing (SEWB) issues have an individual learning plan developed by the school in collaboration with Aboriginal Community Controlled Health Services (ACCHSs).

### *Integrating culture and community into schooling*

Evidence from research examining schooling and education has found that projects characterised by a high degree of Indigenous involvement and control produced significant benefits for participants, and that engaging parents in children's learning was of critical importance (Closing the Gap Clearinghouse (AIHW, AIFS) 2013). The Yirrakala Homeland School, located in north-east Arnhem Land, provides an example of how mainstream learning curriculums can be adapted to an Aboriginal context. Teachers from this school have incorporated emotion-based activities, drawing on Yolngu concepts of wellbeing, and have seen positive changes in attitude and behaviour as a result (James F. 2017). This example highlights the value of integrating Aboriginal perspectives into curriculum and pedagogy.

Of equal importance is the need to develop partnerships between the school, the family and the community. Opportunity should be provided for parents and communities to participate in the governance of schools through Aboriginal Parents Groups or community

controlled school boards. Embedding culture into educational approaches can be a positive and enabling factor, and a form of early intervention that can prevent contact with the justice system.

### **Adult literacy**

Improving adult literacy is vital to addressing the drivers of disadvantage, inequality, poor school performance and incarceration. Engaging adults in programs to improve their literacy helps to support healthy literacy practices within families and builds a culture that values and supports life-long learning. This in turn supports children in their abilities to engage and perform well at school. The Literacy for Life foundation has developed a mass campaign model which emphasises the ownership and involvement of local community members in order to enact long term change and build self-sufficiency within communities. This kind of campaign can be employed to build community literacy and with it community capacity and empowerment.

#### **RECOMMENDATION 12:**

That Aboriginal parents' groups or community controlled school boards be re-established, along with a Northern Territory wide Aboriginal Education Advisory Group, to facilitate the integration of Aboriginal perspectives into curriculum and pedagogy, and the development of partnerships between the school, the family and the community.

#### **RECOMMENDATION 13:**

That programs to improve adult literacy are introduced in Aboriginal communities to support healthy literacy practices within families. The Literacy for Life campaign should be noted as a possible best practice model.

### **Improving employment pathways**

Early school leaving in remote communities takes place in the context of a relative absence of a labour market and a lack of employment opportunities for Aboriginal youth, emphasising the need for training programs that relate to local conditions and opportunities (Schwab R. 2006). A report completed through the Centre for Aboriginal Economic Progress Research (CAEPR) has also identified a need for improved career counselling and the development of intervention strategies to support school leavers in their early post-school years, and on entering the workforce (Fordham A. & Schwab R. 2007).

The lack of developed local economies and labour markets in the NT, particularly in remote communities, stands out as the main challenge to providing young people meaningful employment and livelihood opportunities. The current Community Development Program adopts a discriminatory and punitive approach that lacks flexibility and provides limited access to waged employment.

Reform of GDP is urgently required to enable greater participation of community

organisations with a greater focus on job creation through social enterprise development and locally relevant economic development (APO NT 2017). This should include stronger pathways and links with existing successful initiatives, such as Ranger programs, and significant areas of ongoing government investment in community infrastructure and services, such as housing and health.

#### **RECOMMENDATION 14:**

That strategies be developed to improve employment outcomes for young Aboriginal people, particularly in remote areas. This should incorporate reform of the Community Development Program (CDP) to enable greater participation of community organisations, with a greater focus on job creation through social enterprise development and locally relevant economic development.

#### **Community-based recreation and drop in centres**

There is a need for increased resources to provide young people with access to meaningful recreation and drop in centres to prevent children from engaging in offending behaviours to being with. It has been shown that, with careful planning and implementation, sport and physical activity programs can make a contribution to reducing and preventing crime, particularly when combined with other programs to address personal and social development (Clearinghouse for Sport). The Australian Institute for Criminology (2002) has long recognised recreational activities, community and drop-in centres as effective elements in reducing young people's involvement in crime.

#### **Public health measures to reduce harm from alcohol and other drugs**

Approaches to tackling alcohol-related issues should be focussed on reducing availability and increasing the minimum or floor price at the population-level. Such approaches have shown to be effective in reducing consumption amongst disadvantaged and young populations (Stockwell T. et al. 2012), and preventing FASD (National Indigenous Drug and Alcohol Committee 2012). Access to high quality alcohol and other drug treatment also has a significant effect on reducing community level harm from alcohol.

AMSANT refers the Commission to our model for integrating AOD and mental health services and primary health care in Aboriginal community controlled health services in the NT (AMSANT 2011). This model has been developed with input from ACCHSs in both regional and remote areas who have first-hand experience in provision of SEWB an AOD services in their communities. The model calls for a collaborative needs-based planning approach to; deal with high rates of dual diagnosis (coexistence of mental health and AOD conditions); integrate mental health and AOD services into other aspects of primary health care; provide a full range of services to remote populations; address AOD and mental health issues in a culturally-effective, holistic way, and; establish multidisciplinary SEWB health teams with a strong Aboriginal workforce.

#### **RECOMMENDATION 15:**

That culturally safe, inclusive and structured activities and drop-in centres be available across remote regional and urban areas, and that the APO NT Partnership Principles apply to the funding of youth activities targeting young Aboriginal people.

#### **RECOMMENDATION 16:**

That a population-level approach to alcohol availability be adopted through increases in the minimum or floor price of alcohol.

#### **RECOMMENDATION 17:**

That the recommendations of the NT Parliamentary Inquiry into Fetal Alcohol Spectrum Disorder (FASD) be implemented.

#### **RECOMMENDATION 18:**

That Alcohol and other Drug (AOD) services incorporated into PHC be available to all Aboriginal people including young people.

## **5. HEALING-CENTRED APPROACH TO YOUTH JUSTICE AND CHILD PROTECTION**

### **A paradigm shift**

The Hamburger Report urged the government “to urgently develop, implement and support alternatives to the imprisonment of youth, and an injection of funds for the design, construction and staffing of purpose built facilities at Darwin and Alice Springs for the youth who cannot be diverted from custody”. It called for nothing short of a paradigm shift, a fundamental reimagining of our approach to child protection and youth detention, which is able to deliver rehabilitation programs and most importantly, to offer “alternative options to the detention of young people” (Hamburger K. 2016). Such a reimagined approach must have therapeutic rehabilitation and healing as its primary aim, rather than retributive punishment. AMSANT has urged that this must be based on trauma-informed principles.

It is important to understand that the implementation of a trauma-informed approach to youth justice and child protection systems will be an ongoing organisational change process. A ‘trauma-informed approach’ is not merely a program model that is implemented through a few training sessions and then monitored by a compliance checklist. Rather, it is a profound paradigm shift in knowledge, perspective, attitudes and skills that continues to deepen and unfold over time. Some leaders in the field are beginning to talk about a

“continuum” of implementation, where organisations move through stages. The continuum begins with becoming trauma aware and moves to trauma sensitive to responsive to being fully trauma-informed (MO Dept. of Mental Health and Partners 2014).

Therefore, for trauma-informed care to be thoroughly integrated within organisations, the ongoing transformation of these systems relies on the transformation of organisational cultures, philosophies and understandings over time, through implementing culturally and trauma informed approaches to care within structures, processes, behaviours, policies and procedures. This includes the delivery of training across all areas of the workforce from leadership and governance, to administration and service delivery. Currently AMSANT is proposing to work collaboratively with NAAJA, CAALAS, Territory Families and NT Police services to provide training to staff that addresses the four core domains of culturally and trauma-informed child protection and juvenile justice systems (AMSANT 2017).

## Changes to legal system

### *Increase minimum age for a young person in detention*

The minimum age for placing a young person in detention needs to be raised to 12 in accordance with the absolute minimum age recommended by the UN Human Rights Council (United Nations General Assembly Human Rights Council 2015). The current minimum age of criminal responsibility in Australia is out of touch with international law, and evidence about children’s brain development demonstrates that children under 12 years lack the necessary capacities for full criminal responsibility (Jesuit Social Services 2015).

#### **RECOMMENDATION 19:**

That the minimum age for placing a young person in detention be raised to 12 in accordance with Australia’s obligations under international law.

### *Specialist and therapeutic courts*

There is a need for the establishment of specialist courts which are culturally safe and therapeutically appropriate for young Aboriginal people. These courts need to be equipped to deal with young people who may have experienced significant trauma, who may have severe mental or social and emotional wellbeing issues, who come from specific Aboriginal cultural environments, and who may not understand English well. All of these factors must be taken into account by the courts as factors driving offending behaviours and interaction with the justice system, and should inform the delivery of culturally safe court services that young Aboriginal people can understand and feel comfortable participating in.

Such courts should have a therapeutic and rehabilitative focus and may include court intervention, diversionary, rehabilitation and restorative justice programs. AMSANT particularly identifies the strong link between alcohol and other substance misuse and violent offending and therefore identifies the need for a specialist AOD court. Such a court would aim to reduce reoffending through targeted therapeutic interventions that identify substance misuse as an underlying factor in a person’s offending.

There is also a need to recognise Aboriginal community-driven responses to engage with

the criminal justice system, such as the Law and Justice Groups in some remote communities. The Kurdiji Law and Justice Group in Lajamanu is a successful example of community Elders establishing a forum that interfaces with the mainstream justice system and has been accommodated within the court system (CLC 2014). Additionally, the community of Galiwin'ku has recently proposed the establishment of a Yolngu community authority to prevent family violence which proposes the sharing of authority and real decision making power, and to have respect for and recognition of each other's law in order to work together (Suttle D. and Dhurrkay Y. 2016). These are just a few examples of the work that can be done by communities, for their own people, to integrate customary understandings of law with that of the mainstream, in order to deal with issues of justice.

#### **RECOMMENDATION 20:**

That the criminal justice system recognise and work in conjunction with Aboriginal community-driven responses to engage with the mainstream criminal justice system, such as Law and Justice Groups.

#### **RECOMMENDATION 21:**

That specialist courts which are culturally safe and therapeutically appropriate for young Aboriginal people be established, with a focus on diversionary, rehabilitative and restorative justice programs. A specialist AOD court should be introduced as a priority to deal with the issue of alcohol and illicit drug misuse as primarily a health issue rather than a criminal one. Both residential and community based AOD services (preferably in Aboriginal PHC), should be resourced to deliver targeted therapeutic interventions as part of community-based treatment or orders wherever possible.

#### ***Options for young people with FASD and other cognitive / mental health issues***

It is important to acknowledge that there are high rates of developmental vulnerability in Aboriginal children affecting physical, language and cognitive development. These vulnerabilities are influenced by a complex web of causative factors including anaemia, malnutrition, frequent infections, poor parenting skills, impacts of alcohol and other drug use and lack of access to quality child care and early childhood education. The most effective way to reduce the impacts of these factors is through comprehensive primary health care, including screening, quality antenatal care and universal childhood surveillance for developmental vulnerabilities (AMSANT 2016a2016a). Comprehensive screening, assessment and early intervention is imperative to support families with children suffering from FASD or other cognitive and mental health conditions. Programs such as the Abecedarian and Nurse Family Partnership programs can particularly help vulnerable children with developmental delay. Some children will also need specialist early intervention programs.

### *Assessment of children with cognitive / mental health issues*

In cases where children suffering from cognitive or other mental health do come in contact with the criminal justice system, it is imperative that any impairments are considered when choosing pathway for the offender, and that therapeutic options are made available as a priority. However, many children in the youth justice and child protection system do not receive appropriate assessments at first contact with these systems to determine the presence or nature of cognitive/mental health issues.

Even where police, prosecution or a Magistrate or Judge suspect that a young person may have an impairment, the lack of assessment and support services means that obtaining any diagnosis can be very difficult. The lack of timely diagnostic capacity within these systems means that processes and decisions cannot be tailored to reflect the particular circumstances and needs of the young person. This impacts the delivery of therapeutic services, questions of reduced culpability and bail and sentencing decisions.

#### **RECOMMENDATION 22:**

That comprehensive screening, assessment and early intervention be provided to support families with children suffering from FASD or other cognitive and mental health conditions. In cases where children suffering from cognitive or other mental health conditions come in contact with the criminal justice system, any concerns around impairments should be considered when choosing pathways for the young person, and recommendations from the comprehensive assessments should be actioned as noted in the assessments.

### **Non-custodial approaches**

#### *Access to therapeutic services at first point of contact*

Therapeutic programs should be introduced which target young Aboriginal people at first point of contact with police and the criminal justice system. The provision of Intensive Case Management, and Family Support Services, such as Multi-systemic Therapy (MST), should be made available for all young people who are in need of these services through ACCHSs. This kind of therapeutic intervention can prevent them either dropping out of school or becoming entrenched in the criminal justice system. Approaches such as MST have demonstrated effects on rates of recidivism and are considerably more cost-effective than detention (McGinness A and McDermott T 2010). Such an approach would need to be adapted to the specific social and cultural context of young Aboriginal people in the Northern Territory. These services should address all issues holistically and not be over specialised.



### **RECOMMENDATION 23:**

That therapeutic programs, such as Multi-systemic Therapy (MST), be introduced to target young Aboriginal people at first point of contact with police and the criminal justice system.

#### ***Pre-sentencing youth diversionary programs***

Diversions programs focussing on education, employment and cultural enrichment create the opportunity for better outcomes for young people who come into contact with the criminal justice system, as well as for the community. Diversions programs have been proven effective in reducing substance use and incidences of reoffending among Aboriginal offenders, particularly when they incorporate culturally relevant treatments and engage with community elders or facilitators (Closing the Gap Clearinghouse (AIHW, AIFS) 2013). Importantly, the administration of diversion should be moved from the discretion of police officers to the control of the judiciary. Community-based diversion represents a real opportunity to address the underlying criminogenic and social issues that contribute so significantly to the offending of young Aboriginal people. The Mt Theo program is a perfect example of what can be achieved through community-led diversion. Initiated by the Yuendumu Community in 1993 to address chronic petrol sniffing, and funded through support from the local school and shop, the program has since widened its scope to provide a comprehensive program of youth development, leadership, diversion, respite, rehabilitation, and aftercare throughout the Warlpiri region. The key aim of this partnership between the Mt Theo program, Warlpiri youth and their communities is the facilitation of positive and meaningful futures for them as individuals and their families, community and culture at large (Warlpiri Youth Development Aboriginal Corporation 2016).

### **RECOMMENDATION 24:**

That increased resources be allocated to diversion programs. The administration of diversion should be moved from the discretion of police officers to the control of the judiciary.

#### ***Culturally appropriate community-based rehabilitation***

In cases where young people are not able to be diverted and do come into contact with the criminal justice system, it is vital that community-based rehabilitation be made an option where possible. This will require investment in restorative justice initiatives such as youth conferencing and victim-offender mediations facilitated by community legal aid services, as well as community-based law and justice groups, such as the successful example of the Kurdiji currently operating in Lajamanu (CLC 2014). Alongside these initiatives there will need to be provision of services to address the social and emotional wellbeing, physical and mental health issues that young Aboriginal people face. These kinds of interventions



have the potential to create forums of rehabilitation and healing where culturally and socially relevant factors can be considered alongside the needs of the mainstream justice system. At present, there is a significant lack of these kinds of youth services in the NT, particularly in remote areas.

#### **RECOMMENDATION 25:**

That community-based rehabilitation, including youth conferencing, victim-offender mediations and engagement with local law and justice groups, be made an option to young offenders wherever possible. All rehabilitative interventions should incorporate services that address the social and emotional wellbeing, physical and mental health issues that young Aboriginal people face.

### **Detention of young people**

#### *Alternative accommodation for young people currently held on remand*

Supported bail accommodation and other non-custodial alternatives are urgently needed to prevent the remand of children due to lack of alternative accommodations. The pre-trial remand of children should only be used as a last resort according to Australia's human rights obligations, however a report by Amnesty International revealed 58% of all young Indigenous people in detention in Australia between June 2013 and June 2014 were held on remand (Amnesty International 2015). The rate of children on remand in custody in the NT is significantly higher, in June of 2008 71% of all juveniles in detention were held on remand, the highest of any state or territory at that time (Richards K. and Lyneham M. 2010). Supported accommodation which responds to the emotional, social and cultural needs of young Aboriginal people is particularly needed for children in out-of-home care and those with mental health issues and cognitive impairments, including FASD.

#### **RECOMMENDATION 26:**

That culturally appropriate supported bail accommodation and other non-custodial alternatives are immediately provided to prevent children being held on remand. Pre-trial remand of children should only be used as a last resort in conjunction with Australia's Human Rights obligations.

#### *Policies and procedures: Screening, assessment and care*

There should be appropriate protocols for screening and assessing young people upon entering detention facilities, as well as on-going monitoring, in order to plan the appropriate interventions and address potential issues of risk. This should include a structured assessment of risk for re-offending and also level of risk of harm to self and others.

Additional assessments should include:

- Physical and mental wellbeing
- Substance use
- Cognitive, language and communication difficulties
- Life experiences with a focus on trauma and appropriate cultural assessments

All assessments should be conducted by appropriately qualified practitioners. Additionally, there must be protocols put in place to ensure that young detainees with physical and/or mental health concerns are given access to treatment. This treatment should be evidence-based and delivered by appropriately qualified health professionals.

AMSANT suggests the Commissioners engage with psychologists in the NT to obtain information about access to appropriate and best practice services, as well as the conditions under which such services should be delivered to young people in detention.

#### **RECOMMENDATION 27:**

That appropriate protocols for screening and assessment be conducted by appropriately qualified practitioners for all young people upon entering detention facilities, including a structured assessment of risk for re-offending and also level of risk of harm to self and others. Ongoing monitoring should include evaluations of the young person's; physical and mental wellbeing, substance use, cognitive, language and communication difficulties and life experiences, with a focus on trauma and appropriate cultural assessments.

#### ***Quality interventions for behaviour management***

The NT Government should implement behaviour management policies in youth detention facilities that are underpinned by evidence of their effectiveness, such as Positive Behaviour Support. Positive Behaviour Support facilitates the creation of proactive behaviour management plans that are concerned with what to do when the problem behaviour is not happening. A main component of this approach is a comprehensive functional assessment aimed at understanding the meaning or function of behaviours from the person's point of view (LaVinga G. Willis T. 2012). The focus is on improving living environments, building on strengths, teaching skills, improving health, fostering friendships, increasing opportunities for exercising control, and other things we can do to promote physical, psychological, and social well-being and happiness. This is in sharp contrast to the past emphasis and reliance on manipulating consequences, such as extinction procedures, and aversive consequences (Carr et al., 2002). With Positive Behaviour Support when strategies are focussed on consequences, they utilise powerful incentives to act as reinforcers for positive behaviours. The real focus of this method is on the young person's strengths. Once we recognise people's strengths we develop positive expectations about their ability to learn and make valued contributions. Positive expectations, in turn, lead to the provision of opportunities to take part and learn. As a result the person becomes positively and meaningfully engaged and grows. In order to be most effective within a youth justice setting, however, this program requires a consistent, positive culture where prevention and positive reinforcement rule over reaction and punishment (Nelson C. et al. 2008).

### **RECOMMENDATION 28:**

That Aboriginal Community Controlled Health Services (ACCHSs) be fully resourced to deliver behaviour management policies, such as Positive Behaviour Support, in youth detention facilities.

#### ***Rehabilitation and treatment centres***

When young people (aged 12 to 18) need to be detained it should be for the purpose of rehabilitation and treatment. AMSANT endorses the decision of the NT Government to transfer responsibility for the youth detention system to the Department of Territory Families. AMSANT urges that detention in secure facilities should only be considered for the small number of young people where there is deemed to be a significant risk to the community. In all other cases, young people should be housed in rehabilitation facilities that take the form of small residential units where therapeutic treatments can be undertaken. Where an approach like this has been taken it has been shown to achieve exceptional reductions in juvenile recidivism, for example in Missouri, USA where youth detention facilities were replaced with small group homes that provided personal attention and therapy (McGinness A. and McDermott T. 2010). Where possible and appropriate these facilities should be located close to the young people's communities and run by Aboriginal community controlled organisations.

### **RECOMMENDATION 29:**

That detention in secure facilities only be considered for the small number of young people where there is deemed to be a significant risk to the community. In all other cases, young people should be housed in small residential units where therapeutic treatments can be undertaken. Where possible and appropriate these facilities should be located close to the young people's communities and run by Aboriginal Community Controlled Organisations (ACCOs).

#### ***Intensive support post-release to reduce recidivism***

A reformed system of youth detention should consider the reintegration of young people as a primary function. Young people in youth detention require long-term, individualised support to address the range of factors which have contributed to their offending behaviour; and the young person's family and community may also need support to assist them to support reintegration into the community (Jones C. and Guthrie J. 2016). Post-release supports should be directly linked to the community-based programs outlined above. These supports should incorporate literacy, education and employment programs which work with offenders and their families and communities. In consideration of the high proportion of young Aboriginal people in detention in the Northern Territory these programs should be delivered by Aboriginal community-controlled organisations wherever possible.

### **RECOMMENDATION 30:**

That long-term, individualised support be provided to young people post-release to address the range of factors which have contributed to their offending behaviour. These supports should be directly linked to community-based rehabilitative programs and should incorporate literacy, education and employment programs which work with offenders and their families and communities. These programs should be delivered by Aboriginal Community Controlled Organisations wherever possible.

### **Overhaul out of home care and child protection systems**

A major review of the child protection system in the Northern Territory was undertaken in 2010 which identified a highly-fragmented system in need of organisational reform (NT Government 2010). While there has been some positive progress on the back of the recommendations of this report, we have not seen the major reforms needed to ensure the safety and wellbeing of children in the Northern Territory. As the 2010 Growing Them Strong, Together report states:

*If change is to occur, we need to invest as much, if not more, into preventing the need for vulnerable children to be placed into care as we do to investigating and monitoring families and placing their children elsewhere.*

There is an urgent need to focus on culturally sensitive early intervention and support, which increase in intensity according to need. All children and families at risk of entering the child protection system should be provided with targeted family support services, preferably provided by an Aboriginal primary health care service, with the primary aim to stop removal. However, it is equally important that these intensive supports continue to be provided if the child is removed on a temporary basis, and be continued post reunification for as long as necessary.

Territory Families should limit their role to the provision of statutory interventions and outsource family support programs to Aboriginal organisations. These ACCOs should be supported to provide family support, kinship care and family reunification support.

### **RECOMMENDATION 31:**

That the child protection system is independently audited against the recommendations of the 2010 Report of the Board of Inquiry into the Child Protection System in the Northern Territory and that those recommendations which have not been implemented or only partially implemented are prioritised.

### **RECOMMENDATION 32:**

That Territory Families limit their role in high risk families to statutory functions and outsource family support programs to ACCOs.

### ***Aboriginal controlled out of home care organisations***

The out of home care (OOHC) and child protection systems should be reformed through the establishment of an Aboriginal led and managed service model. AMSANT has worked closely with APO NT and other relevant stakeholders to develop a comprehensive strategy to achieve this transition. This strategy responds directly to the overall goal that emerged from the Aboriginal OOHC Forum held in Alice Springs in July of 2016, which brought together leaders from across the sector. This goal was to ensure Aboriginal children and young people in OOHC in the NT are cared for by Aboriginal carers, supported by Aboriginal caseworkers, in culturally appropriate settings managed by ACCOs.

This strategy is guided by the following principles:

1. Adopt APO NT NGO Partnership Principles.
2. Service models will implement the Aboriginal child placement principle utilising Family Group Conferencing to ensure absolute priority is given to finding appropriate kinship carers and if not, Aboriginal foster carers within the same region.
3. Service models are based on trauma informed practice principles.
4. An Aboriginal lens guides service development and service delivery.
5. Aboriginal organisations deliver holistic family strengthening, placement prevention, reunification and OOHC services to children and families.
6. Realistic and flexible funding for OOHC services is based on need and for service models that are appropriate for the communities in each region.
7. Transition of OOHC to the Aboriginal community controlled sector builds on existing service infrastructure in regions.
8. Aboriginal organisations are supported to become accredited OOHC service providers through partnerships and/or capacity building strategies.

To begin the transition to this reformed system the immediate establishment of an Aboriginal Child Care Agency with two regional hubs, Top End and Central Australia, is required. This agency would work closely with a Steering Committee, comprised of members from community and family service agencies in the NT, and Territory Families to develop a long-term implementation plan for the roll out of this strategy. The proposal for this comprehensive strategy has been put to the NT Government and now requires resourcing to further develop this plan.

### ***Family Group Conferencing and Aboriginal Family decision-making***

In accordance with the Aboriginal placement principle, Family Group Conferencing and Aboriginal Family decision-making should be reinstated so that kinship care is given absolute priority. These kinds of interventions provide forums in which the extended family can be involved in decision making process about the wellbeing of a child who is at risk of removal. Lessons can be learnt from a pilot of family group conferencing in Alice Springs which identified the “potential transformative powers” of these forums in reducing the need for child protection matters to be determined through court processes (Centre for Child Development and Education 2012).

### **RECOMMENDATION 33:**

That all children and families at risk of entering the child protection system be provided with targeted family support services, preferably provided by an Aboriginal PHC service. These services should also be provided if a child is removed on a temporary basis and continue post-reunification if necessary.

### **RECOMMENDATION 34:**

That the Northern Territory Government fund the development of a comprehensive strategy to address Out of Home Care (OOHC) for Aboriginal children in the Northern Territory. This strategy should incorporate the following: (a) OOHC should be contracted out to ACCOs in each region who then have the responsibility for recruiting, training and supporting kinship and foster carers and supporting all placements of children. (b) Family Group Conferencing and Aboriginal Family decision-making be reinstated so that kinship care is given absolute priority. (c) Adequate reimbursement and support be provided for Aboriginal kinship carers.

### ***Aboriginal Children's Commissioner***

The Office of the Children's Commissioner provides vital information to the public about the state of health and wellbeing for children and young people in the Northern Territory. In recognition of the disproportionate number of Aboriginal children in the child protection and youth justice systems, AMSANT considers that the Office needs to be strengthened through the appointment of an Aboriginal Children's Commissioner.

To ensure that the report and recommendations put forward by this Royal Commission are not simply added to the long history of failed responses, a mechanism to provide oversight and monitoring and ensure parties are held accountable is necessary. AMSANT proposes that the Aboriginal Children's Commissioner play a central role in providing this accountability by providing 6 monthly reports on progress made in response to the Royal Commission's findings.

### **RECOMMENDATION 35:**

That the Office of the Children's Commissioner be strengthened through the appointment of an Aboriginal Children's Commissioner, and that this person be mandated to provide 6 monthly reports on progress made in response to the Royal Commission's findings and recommendations.

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